

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DONOVON LEE,)	
Plaintiff,)	
)	C.A. No. 22-365 Erie
v.)	
)	District Judge Susan Paradise Baxter
L. FISCUS, et al.,)	Magistrate Judge Cynthia Reed Eddy
Defendants.)	

MEMORANDUM ORDER

Plaintiff Donovan Lee, an inmate incarcerated at the State Correctional Institution at Forest in Marienville, Pennsylvania (“SCI-Forest”), commenced this *pro se* civil rights action on December 22, 2022, against the following Defendants: Cumberland County Assistant District Attorney Courtney Hair-Larue (“Hair-LaRue”), Pennsylvania State Trooper John Boardman (“Boardman”), and three DOC prison officials: Hearing Examiner L. Fiscus (“Fiscus”), Captain Frank Salvay (“Salvay”), and Lieutenant M.V. Smith (“Smith”) (For ease of reference, all Defendants other than Defendant Hair-LaRue are herein referred to collectively as “Commonwealth Defendants”). This matter was referred to United States Magistrate Judge Cynthia Reed Eddy, for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On July 24, 2023, Plaintiff filed an amended complaint, which is the operative pleading in this case [ECF No. 24]. Plaintiff’s claims arise from a series of events that began on January 18, 2018, when the Pennsylvania State Police in Carlisle, Pennsylvania, received a letter from Plaintiff allegedly containing a toxic substance. After a police investigation, Plaintiff was placed in a psychiatric observation cell for seven days, issued and found guilty of a DOC institutional

misconduct, and subsequently charged with multiple criminal offenses in the Court of Common Pleas of Cumberland County, Pennsylvania, of which he was ultimately found not guilty, after jury trial, in October 2022.

Plaintiff alleges that Defendants violated his rights under the fifth, sixth, eighth and fourteenth amendments to the United States Constitution, as follows: (i) Defendant Hair-LaRue committed malicious prosecution and violated Plaintiff's due process rights by refusing to return his personal property; (ii) Defendant Fiscus violated Plaintiff's Eighth Amendment rights by finding him guilty of a misconduct without actual evidence; (iii) Defendant Salvay violated Plaintiff's Sixth Amendment rights by issuing him a misconduct; (iv) Defendant Smith violated Plaintiff's Eighth Amendment rights by placing him in a psychiatric observation cell in a smock; and (v) Defendant Boardman committed false arrest and violated Plaintiff's due process rights by refusing to return his personal property. In response to Plaintiff's amended complaint, Defendant Hair-LaRue and the Commonwealth Defendants filed motions to dismiss [ECF Nos. 26 and 28, respectively], which were fully briefed by the parties.

On January 18, 2024, Magistrate Judge Eddy issued a Report and Recommendation ("R&R1"), recommending that Defendant Hair-LaRue's motion to dismiss be granted in its entirety and that Plaintiff's claims against said Defendant be dismissed, with prejudice and without leave to amend [ECF No. 33]. On the same date, Judge Eddy issued a second Report and Recommendation ("R&R2"), recommending that the Commonwealth Defendants' motion to dismiss be granted in its entirety, and that all of Plaintiff's claims against each of the Commonwealth defendants be dismissed, with prejudice and without leave to amend [ECF No. 34]. Objections to both R&R's were due to be filed by February 5, 2024; however, no timely

objections have been received by the Court.

Thus, after *de novo* review of the relevant documents in this case, together with the reports and recommendations, the following order is entered:

AND NOW, this 20th day of February, 2024;

IT IS HEREBY ORDERED that the motion to dismiss filed by Defendant Hair-LaRue [ECF No. 26], and the motion to dismiss filed by the Commonwealth Defendants [ECF No. 28], is each GRANTED in its entirety and that all claims in this case are DISMISSED, with prejudice and without leave to amend, because any amendment would be futile. The reports and recommendations of Magistrate Judge Eddy, issued January 18, 2024 [ECF Nos. 33 and 34], are adopted as the opinions of the court.

The Clerk is directed to mark this case CLOSED.


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Cynthia Reed Eddy
United States Magistrate Judge